

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

PATRICK BIRMINGHAM, M.D.,	)	
	)	
Plaintiff,	)	
v.	)	Civil Action No. 18-cv-02852
	)	
GODFREY & KAHN, S.C. and JAMES	)	Honorable Marvin E. Aspen
JOYCE,	)	
	)	
Defendants.	)	
	)	

---

**AGREED MOTION TO STAY EXPERT DISCOVERY**

Pursuant to Federal Rule of Civil Procedure 6(b), Defendants, Godfrey & Kahn, S.C. and James Joyce (collectively “Defendants”), and Plaintiff, Patrick Birmingham, M.D. (“Plaintiff”), respectfully move this Court for an order extending previously set deadlines.

1. On May 9, 2019, this Court granted the parties’ Joint Motion to Extend Scheduling Order and further ordered that any final motions for summary judgment are to be filed in open court by February 13, 2020. [D.E. 24 accepting dates proposed by D.E. 22.]

Pursuant to that order, the following schedule was entered:

Fact discovery cutoff:	July 8, 2019
Disclosure of expert reports:	August 12, 2019
Completion of expert depositions:	September 15, 2019
Disclosure of rebuttal expert reports:	October 14, 2019
Completion of rebuttal expert depositions:	November 18, 2019; and
Deadline to file dispositive motions:	February 13, 2020.

2. With leave of the Court, fact discovery was completed by July 10, 2019. [D.E. 27 granting Defendants’ Motion for Leave to take remaining fact witness deposition.]

3. On August 6, 2019, upon being advised of the parties' desire to participate in mediation prior to engaging in expert discovery, the Court stayed expert discovery until October 8, 2019 while the parties explored mediation options. [D.E. 37.]

4. While the parties worked cooperatively in scheduling the mediation, due to issues in agreeing upon a mediator, the agreed-upon mediator's availability, and scheduling conflicts of all required to attend the mediation, the parties were not able to schedule a mediation until November 14, 2019.

5. Accordingly, the parties request that expert discovery be stayed until December 9, 2019 to allow the parties the opportunity to continue settlement discussions after the mediation, if necessary. The parties further request that this matter be set for a status hearing on a date after December 9, 2019 for the parties to provide the Court with an update.

6. The parties do not seek this extension for purposes of delay, and no party will be prejudiced by an Order extending the stay of expert deadlines until December 9, 2019. Rather, the purpose of the extension is to enable the parties to attempt to resolve this matter.

WHEREFORE, Defendants, Godfrey & Kahn, S.C. and James Joyce, and Plaintiff, Patrick Birmingham, M.D., respectfully request that the Court grant this Agreed Motion to Stay Expert Discovery; stay the previously set expert discovery schedule until December 9, 2019; and schedule a status hearing on a date after December 9, 2019.

Dated: September 25, 2019

/s/ Kyle D. Wallenberg

One of the Attorneys for Plaintiff Patrick  
Birmingham, M.D.

Kyle D. Wallenberg  
Matthew G. McAndrews  
NIRO MCANDREWS, LLP  
155 N. Wacker Drive, Suite 4250  
Chicago, IL 60606  
*kwallenberg@niro-mcandrews.com*  
*mmcandrews@niro-mcandrews.com*

Derek Gilliland (admitted *pro hac vice*)  
Texas State Bar No. 24007239  
NIX PATTERSON LLP  
222 N. Fredonia Street  
Longview, TX 75601  
*dgilliland@nixlaw.com*

/s/ Julie M. Mallen

One of the Attorneys for Defendants Godfrey  
& Kahn, S.C. and James Joyce

Robert J. Palmersheim  
Anand C. Mathew  
Julie M. Mallen  
PALMERSHEIM & MATHEW LLP  
401 North Franklin Street, Suite 4S  
Chicago, IL 60654  
Tel: 312.319.1791  
*rjp@thepmlawfirm.com*  
*acm@thepmlawfirm.com*  
*jmm@thepmlawfirm.com*

**CERTIFICATE OF SERVICE**

I, Julie M. Mallen, an attorney, hereby state that I caused a copy of the foregoing to be filed electronically with the Clerk of the Court using the CM/ECF system on September 25, 2019, which will automatically forward notice to all attorneys of record.

/s/ Julie M. Mallen